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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0185-WOC-E TCEQ ID: RN103279188 CASE NO.: 32579
RESPONDENT NAME: Richard B. Barkley

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Richard B. Barkley, 17210 Telegraph Creek Drive, Spring, Montgomery County</p> <p>TYPE OF OPERATION: Wastewater treatment plant operator</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 3, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Richard B. Barkley, Owner, 17210 Telegraph Creek Drive, Spring, Texas 77379 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 6, 2006</p> <p>Date of NOE Relating to this Case: February 2, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>WATER</p> <p>Failure to obtain a wastewater treatment operator license prior to performing activities as a wastewater treatment operator. Specifically, the respondent was operating the Bammel Utility District wastewater treatment plant without a minimum wastewater certification of Class B. Mr. Barkley's license expired on May 3, 2004 [30 TEX. ADMIN. CODE § 30.331(b) and TEX. WATER CODE § 37.003].</p>	<p>Total Assessed: \$188</p> <p>Total Deferred: \$37 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$151</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Mr. Barkley took and passed the examination for a wastewater treatment operator license on December 31, 2006.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	5-Feb-2007	Screening	7-Feb-2007	EPA Due	
	PCW	7-Feb-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Richard B. Barkley		
Reg. Ent. Ref. No.	RN103279188		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32579	No. of Violations	1	
Docket No.	2007-0185-WOC-E	Order Type	1660	
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Harvey Wilson	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 **\$250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** Subtotals 2, 3, & 7 **\$0**

Notes: No enhancement is recommended due to no previous compliance history.

Culpability **No** **0% Enhancement** Subtotal 4 **\$0**

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **25% Reduction** Subtotal 5 **\$62**

Before NOV NOV to EDPRP/Settlement Offer
Extraordinary ☐ ☐
Ordinary ☒ ☐
N/A ☐ (mark with x)

Notes: Respondent passed the license exam on December 31, 2006.

Total EB Amounts **\$3** **0% Enhancement*** Subtotal 6 **\$0**
Approx. Cost of Compliance **\$100** *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal **\$188**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment **\$0**

Notes:

Final Penalty Amount **\$188**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$188**

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction Adjustment **-\$37**

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$151

Screening Date 7-Feb-2007

Docket No. 2007-0185-WOC-E

PCW

Respondent Richard B. Barkley

Policy Revision 2 (September 2002)

Case ID No. 32579

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN103279188

Media [Statute] All Occupational Licenses

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No enhancement is recommended due to no previous compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 7-Feb-2007

Docket No. 2007-0185-WOC-E

PCW

Respondent Richard B. Barkley

Policy Revision 2 (September 2002)

Case ID No. 32579

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN103279188

Media [Statute] All Occupational Licenses

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 30.331(b) and Tex. Water Code § 37.003

Violation Description

Failed to obtain a wastewater treatment operator license prior to performing activities as a wastewater treatment operator. Specifically, the respondent was operating the Bammel Utility District wastewater treatment plant without a minimum wastewater certification of Class B. Mr. Barkley's license expired on May 3, 2004.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1

25 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One monthly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$188

This violation Final Assessed Penalty (adjusted for limits) \$188

Economic Benefit Worksheet

Respondent Richard B. Barkley
Case ID No. 32579
Reg. Ent. Reference No. RN103279188
Media All Occupational Licenses
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	13-Jun-2006	31-Dec-2006	0.6	\$3	n/a	\$3

Notes for DELAYED costs

The estimated cost of obtaining a class B operator license. Date Required is the date the violation occurred.
 Final Date is the date the respondent came into compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$3
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Compliance History

Customer/Respondent/Owner-Operator: CN601799810 BARKLEY, RICHARD B. Classification: Rating:
Regulated Entity: RN103279188 BARKLEY, RICHARD B. Classification: Site Rating:
WASTEWATER LICENSING LICENSE WW0033606
ID Number(s):
Location: 17210 Telegraph Creek Drive, Spring, TX 77379
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: February 06, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 06, 2002 to February 06, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Harvey Wilson Phone: 239-0321

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 02/02/2007 (537658)

N/A

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RICHARD B. BARKLEY
RN103279188**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0185-WOC-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Richard B. Barkley ("Mr. Barkley") under the authority of TEX. WATER CODE chs. 7 and 37. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Barkley appear before the Commission and together stipulate that:

1. Mr. Barkley is the wastewater treatment plant operator for the Bammel Utility District wastewater treatment facility located at 17210 Telegraph Creek Drive in Spring, Montgomery County, Texas (the "Facility").
2. TCEQ has general authority to regulate the licensing of wastewater treatment operators, pursuant to TEX. WATER CODE ch 37.
3. The Commission and Mr. Barkley agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Barkley is subject to the Commission's jurisdiction.
4. Mr. Barkley received notice of the violations alleged in Section II ("Allegations") on or about February 7, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Barkley of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Hundred Eighty-Eight Dollars (\$188) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Barkley has paid One Hundred Fifty-One Dollars (\$151) of the administrative penalty and

Thirty-Seven Dollars (\$37) is deferred contingent upon Mr. Barkley's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Barkley fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Barkley to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Barkley have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Barkley took and passed the examination for a wastewater treatment operator license on December 31, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Barkley has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Facility, Mr. Barkley is alleged to have failed to obtain a wastewater treatment operator license prior to performing activities as a wastewater treatment operator, in violation of 30 TEX. ADMIN. CODE § 30.331(b) and TEX. WATER CODE § 37.003, as documented during an investigation conducted on December 6, 2006.

III. DENIALS

Mr. Barkley generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Barkley pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Barkley's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Richard B. Barkley, Docket No. 2007-0185-WOC-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Mr. Barkley. Mr. Barkley is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Barkley in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Barkley, or three days after the date on which the Commission mails notice of the Order to Mr. Barkley, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

2. The second part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

3. The third part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

4. The fourth part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

5. The fifth part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

6. The sixth part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

7. The seventh part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

8. The eighth part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

9. The ninth part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

10. The tenth part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sullivan
For the Executive Director

9/7/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Richard B. Barkley
Signature

6-4-07
Date

RICHARD B. BARKLEY
Name (Printed or typed)
Authorized Representative of
Richard B. Barkley

OPERATOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

